ISRAEL

TRADE SUMMARY

The U.S. trade deficit with Israel in 2000 was $5.2 billion, based on U.S. Department of Commerce statistics, up from $2.2 billion in 1999. U.S. merchandise exports to Israel totaled $7.7 billion, about the same as 1999 levels. U.S. imports from Israel were $13 billion, up from $9.9 billion in 1999.

U.S. exports of private commercial services (i.e., excluding military and government) to Israel were $2.1 billion in 1999, and U.S. imports were $1.7 billion.

The stock of U.S. foreign direct investment (FDI) in Israel in 1999 was $3.2 billion, up 9 percent from 1998 levels. U.S. FDI in Israel is concentrated in the manufacturing sector, although investment in financial services is increasing. More than half of all U.S. FDI is in electronics-related manufacturing.

The United States-Israel Free Trade Area Agreement

The United States-Israel Free Trade Area Agreement (FTAA), implemented on September 1, 1985, called for phased tariff reductions culminating in the complete elimination of duties on all products effective January 1, 1995. The agreement eliminates most trade barriers between the United States and Israel, leaving Israel's agricultural sector as the only one where substantial barriers remain.

Given the substantial trade barriers remaining in the agricultural sector, in 1996 the United States and Israel signed a five-year Agreement on Trade in Agricultural Products (ATAP), establishing a program of gradual and steady market access liberalization for food and agricultural products. This agreement will lapse in 2001. The U.S.-Israel Joint Economic Committee (JEC), created to supervise implementation of the 1985 FTAA, has proved itself a useful mechanism for addressing a wide range of bilateral trade issues. The JEC last met in Washington in October 1999 and is expected to meet again in spring 2001.

IMPORT POLICIES

Tariffs

All duties on United States non-agricultural products were eliminated by January 1, 1995.

Agriculture

Israel maintains extensive restrictions on food and agricultural imports. These include tariff-rate quotas (TRQs), prohibitive levies, and bans on certain products, such as non-kosher meats.

Quantitative or non-tariff measures are permitted to be maintained under the 1985 FTAA on the basis of agricultural policy considerations or on religious grounds.

According to the 1996 agreement on trade in agricultural products, all U.S. food and agricultural products have access to the Israeli market under one of three different categories: unlimited duty-free access; duty-free TRQs; or preferential tariffs, which are generally set at least 10 percent below Israel's Most-Favored Nation (MFN) rates. Although exports of many U.S. agricultural products to Israel are still restricted by very high tariffs, the 1996 agreement provides for gradually improving access during each year of the agreement by increasing the TRQs and reducing tariff levels for a significant number of U.S. goods. The combined effect of Israeli trade measures on exports of U.S. agricultural products is significant. For example, in the case of U.S. apples, U.S. industry estimates that elimination of Israeli trade barriers would lead to more than a doubling of U.S. exports, from $4.8 million worth of apples in 1999 to approximately $10 million.

Although Israel has agreed to improve transparency in the calculation of levies, progress remains uneven. The principal problem lies in the calculation of domestic costs of production in Israel as the basis for high import levies imposed on imported food and agricultural goods. Another issue is the treatment of certain imports that is apparently inconsistent with Article 6 of the 1985 FTAA, which permits levies only on products subject to agricultural policy considerations. For example, Israel imposes levies on processed food products such as pasta, some modified starches, and processed fish, none of which are subject to agricultural policy considerations.

U.S. agricultural producers have experienced difficulties with the Israeli TRQ system. In 2000, for the first time, all 2001 TRQs were published on time.

In 1997, the U.S. and Israeli governments negotiated a TRQ to provide market access for U.S. almonds, but the high ex-TRQ duty rates effectively continue to prohibit additional access, even though there are shortages in the local Israeli market. According to industry estimates, elimination of this barrier could result in increased sales by U.S. companies of around $25 million.

Meat Imports

U.S. meat exports to Israel face an especially difficult environment because Israel's "meat and meat products import law" effectively prohibits the importation of any meat or meat product not certified as kosher by Israel's chief rabbinate. However, Israel does permit domestic production and marketing of non-kosher pork and beef. The import ban on non-kosher meat appears to be in violation of the 1985 FTAA, which requires that any religious-based restrictions be implemented in accordance with the principle of national treatment. The U.S. government raised this issue during separate consultations following the October 1999 Joint Economic Commission (JEC) meeting. The GOI continues to maintain that its restrictions on meat imports do not violate the FTAA. U.S. firms estimate that elimination of the prohibition on non-kosher imports could result in increased sales of approximately $10 million - $25 million.

Kosher Certification

The United States-Israel FTAA permits measures relating to prohibitions on religious grounds, "provided that they are applied in accordance with the principle of national treatment." In certain cases, U.S. businesses have complained that the process for granting kosher certificates is discriminatory, and serves to protect domestic products. The process for obtaining kashrut certification is not transparent, as the party seeking certification must pay the "costs" of rabbinical inspection to determine that the ingredients and manufacturing of the product satisfy religious standards. Some businesses claim the fee does not reflect the actual costs of the inspection (in some cases, a percentage of the value of imports has been charged, for example). Moreover, indirect supervision by a rabbi resident in the country of manufacture is permitted in some cases but not in others. Significant problems remain in these sensitive sectors. The United States is pursuing these complaints directly with the government of Israel. Industry estimates that elimination of this barrier could result in an increase in U.S. exports of $10-25 million.

Wine Imports

In the October 1999 meeting of Joint Economic Committee, the U.S. government requested clarification of Israeli tariffs on U.S. wines because the published tariff on some U.S. wines was higher than the MFN tariff rate. The U.S. government also requested that Israel enter into discussions to improve market access for U.S. wine. In a letter to the U.S. Government in January 2001, Israel reiterated its commitment to apply rates to U.S. wine imports that are no higher than the MFN applied rates. Apart from tariffs, wine importers have complained that the government of Israel does not require Israeli wine producers to follow the Israeli Wine Institute's detailed labeling requirements, while these rules are strictly enforced on imported wines. The cost and administration of rabbinical inspection for kosher certification likewise pose problems for U.S. exporters. It is estimated by industry that the elimination of these trade barriers could result in increases in sales of less than $10 million.

Purchase Taxes

Purchase taxes of 5 percent to 90 percent are applied to both local and foreign products ranging from automobiles (not manufactured in Israel) and U.S.-produced motorcycles to refrigerators to alcoholic beverages and cigarettes. Where there is no local production of the imported good, the purchase tax becomes a duty-equivalent charge. Israel reduced or abolished purchase taxes on more than 600 items in 2000, including many imported items such as VCRs, car parts, cosmetics, stereo systems, and washing machines. Imports of most of these items increased substantially in the months following the tax reduction. Purchase taxes on automobiles, alcohol and tobacco were not reduced. Despite reductions, taxes on some other items, including color televisions and stereo systems remain high. Further cuts in purchase taxes, especially on automobiles, could lead to increases in U.S. exports.

Wharfage and Port Fees

Until 1995, Israel charged importers 1.5 percent of the import's C.I.F. value for use of ports and stevedores, whereas exporters faced no charges. In effect, imports were subsidizing exports. In 1995, the U.S. government received a commitment from the government of Israel to equalize port fees for exporters and importers at 0.6 percent, to take effect by the end of 1996. However, at the end of 2000, the import fee still stood at 1.1 percent and the export fee was 0.2 percent.

HS Product Classification

Israel classifies telephone headsets, which are comprised of a microphone, earphone, and telephone adapter/amplifier, as an unusual HS product classification. The Israeli classification HS 8518.10 results in the product carrying a 45 percent duty, rendering telephone headsets exported from the U.S. non-competitive in Israel. The Israeli Government has yet to provide a clear explanation for why the product is classified differently from the U.S., EU, and Canada. In each of those countries the same product is classified HS 8518.30.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Israel has reduced the burden of some discriminatory measures against importers. In 1990, Israel agreed to harmonize standards treatment, and to apply standards equally to imports and exports. Implementation of this promise has been slow. Enforcement of mandatory standards on domestic producers can be spotty, and in some cases (e.g., refrigerators, auto headlights, plywood, carpets), standards, as written or as enforced, enable domestic goods to meet requirements more easily than imports.

In 1999, the Knesset passed a law that provides that Israel can adopt more than one international or major national standard as the Israeli standard for a product. The Commissioner of Standards and the Standards Institution of Israel (SII) share the responsibility for developing Israeli standards and implementing this law. The adoption of an EU standard for ladders in 2000 disrupted imports of U.S. ladders to Israel, and the potential exists for other such disruptions.

GOVERNMENT PROCUREMENT

Israel is a signatory to the WTO Agreement on Government Procurement (GPA), which covers most Israeli government entities and government-owned corporations. Open international public tenders are published in the local press. However, government-owned corporations make extensive use of selective tendering procedures.

In accordance with the Israel public tendering law, all international public tenders with a value of at least $100,000 contain requirements for "Industrial Cooperation" (IC) with Israeli entities in the amount of 30 percent of the value of the total contract. Under the GPA, Israel has negotiated a gradual reduction in the IC requirement over a period of nine years to a level of 20 percent. U.S. companies may invest in local industry, co-develop or co-produce, subcontract to local companies, or purchase from Israeli industry to satisfy the IC offset requirement. U.S. suppliers have found the size and nature of their IC proposals to be a decisive factor in tight tender competitions, despite a court decision that prohibits the use of offset proposals in determining award of a bid.

For civilian local currency procurement by the Ministry of Defense (MOD), a U.S.-Israeli Memorandum of Understanding (MOU), extended in December 1997, gives U.S.

competitors equal status with domestic suppliers. Despite this MOU, few U.S. companies have been successful in supplying the MOD. U.S. suppliers have expressed concerns about the lack of transparency and apparent lack of justification for excluding U.S. suppliers from MOD tendering opportunities.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Israel is a member of the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO), and is a signatory to the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention, the Paris Convention for the Protection of Industrial Property, and the Patent Cooperation Treaty.

Israel's legal system provides for protection of IPR, but enforcement of IPR laws remains inadequate and punishments for IPR violations are insufficient. The U.S. Trade Representative again placed Israel on the Special 301 Priority Watch List in 2000 due in large part to United States concern over continuing illegal copying and sale of video and audio recordings and poor protection of patent rights. According to preliminary industry estimates, losses to U.S. industry are expected to be close to those in 2000, in the range of $100 million to $200 million from software, video, and CD/cassette piracy.

U.S. pharmaceutical companies are also concerned by the lack of adequate data protection in Israel. The Israeli government is reportedly in the process of considering legislation to address the issue of data protection, a process that would take at least several months. In addition, U.S. industry has expressed concern about Israeli legislation that permits parallel importation of pharmaceuticals. The U.S. will continue to closely watch developments on these and other IPR issues.

USTR noted in the 2000 Special 301 report that the Government of Israel has taken important steps to improve its IPR record, including the passage of legislation to implement the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement and the establishment of a special police unit to focus on IPR crime. The Ministry of Justice hired and trained additional prosecutors to focus on IPR, and Israel has undertaken a number of public awareness efforts. While these are positive developments, enforcement and prosecution efforts still lag behind the level needed to combat continuing piracy. The Government of Israel is also developing amendments to its copyright law that would make it easier for Israeli prosecutors to bring charges against copyright violators, and to establish a royalty judge to adjudicate among rival royalty claimants.

INVESTMENT BARRIERS

The Israeli government actively solicits foreign private investment, including joint ventures, especially in industries involving exports, tourism, telecommunications, and high technology. Foreign firms are accorded national treatment in terms of taxation and labor relations, and are eligible for incentives for designated "approved" investments in priority development zones. There are generally no ownership restrictions, but the foreign entity must be registered in Israel. Profits, dividends, and rents generally can be repatriated without difficulty through a licensed bank.

Over 750 major U.S. companies have subsidiaries in Israel. Estimates of the number of Israeli companies with subsidiaries in the United States range from 300 to 500. Investment in regulated sectors, including banking, insurance, and defense industries, requires prior government approval. Israel is a member of the International Center for the Settlement of Investment Disputes (ICSID) and a party to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

SERVICES BARRIERS

Telecommunications

Israel's telecommunications sector is being liberalized gradually. Foreign companies participate in joint ventures providing cellular and international telephone service. DBS satellite broadcasts began in 2000.

Israel officially opened domestic telephone service to domestic and foreign competition in 2000. In 2001, through a tender process, the government will choose three licensees to provide "next generation" wireless broadband LMDS telecommunications services. The government has also issued tenders for an "all news" cable television station, one of five "niche" channels the government expects to develop in 2001, and a tender for Israel's second commercial broadcast television channel.

Bezeq, the telephone parastatal, received a license to provide high speed Internet service, but must permit other Internet service providers to have access to its infrastructure. The government is developing legislation that will permit current cable television providers to provide fast Internet and other telecommunications services through the end of their concessions, which expire in two to four years. The U.S. government is closely monitoring developments in this area to help assure that U.S. firms are permitted to compete on a fair basis with Israeli companies, including the parastatal Bezeq. The U.S. government is also monitoring the process for authorizing cable television service in Israel after the current franchises expire. A particular cause of concern is the possibility that current cable franchisees (including firms with U.S. ownership) may be required to pay a very substantial fee in exchange for authorization to continue offering video service over facilities constructed at their own expense and operated for ten years or more pursuant to franchise agreements.

The government is considering regulations that would restrict advertising aimed at the Israeli market on foreign satellite broadcasts. American media firms and the U.S. government have expressed concern about this to Israeli government officials. Israel's dominant telecommunications carrier, Bezeq, has maintained a discriminatory interconnection charge on calls to and from the United States and Canada that is higher than for traffic to any other part of the world. The fee has declined annually and the GOI has committed to phasing it out completely at the end of 2001.

U.S. attorneys and accountants seeking to practice in Israel face strict testing requirements. Israel's financial services sector generally is open to foreign participation, subject to standard regulatory requirements. One U.S. firm, an armored courier service, charged in Israeli court that subsidies and tax exemptions have allowed the Israeli postal authority to charge a price substantially lower than its private sector competitors. The high court will hear the case in 2001.

ELECTRONIC COMMERCE

Israel is a leader in the development of Internet-related technology, and generally supports U.S. efforts to ensure that electronic transmissions will not be subject to tariffs. U.S. industry has reported no barriers to electronic commerce.